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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/731,050

12/09/2003

Edward H. Overstreet

AB-389U

6749

23845 7590 04/05/2007  
ADVANCED BIONICS CORPORATION  
25129 RYE CANYON ROAD  
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EXAMINER

FLORY, CHRISTOPHER A

ART UNIT

PAPER NUMBER

3762

MAIL DATE

DELIVERY MODE

04/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Supplemental  
Notice of Allowability**

Application No.

10/731,050

Examiner

Christopher A. Flory

Applicant(s)

OVERSTREET ET AL.

Art Unit

3762

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Amendment filed 28 September 2006.
2. ☒ The allowed claim(s) is/are 1-3,5,6,8,9,13,21,22,24 and 27-39.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application                      |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date <u>09/27/2004</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                     | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance              |
|  | 9. <input type="checkbox"/> Other _____.   |

## DETAILED ACTION

### *Information Disclosure Statement*

1. The Information Disclosure Statement submitted on 27 September 2004 was lacking a year of publication for citation A26 to Rubenstein et al. Examiner has corrected this deficiency herein to place the instant application in condition for allowance.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher A. Flory whose telephone number is (571) 272-6820. The examiner can normally be reached on M - F 8:30 a.m. to 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher A. Flory  
19 March 2007

**George Manuel**  
Primary Examiner

  
**ANGELA D. SYKES**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

**Flory, Christopher (AU3762)**

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**From:** Document\_Verification\_Project@USPTO.GOV  
**Sent:** Friday, March 16, 2007 10:17 AM  
**To:** Flory, Christopher (AU3762)  
**Subject:** Document Verification: Application 10731050

Application 10731050:

In the above identified application, certain deficient item(s) were identified during final review of the notice of allowability. Please expeditiously attend to revision of the deficient items as noted on the Document Verification checklist found at the link below and listed in this message.

[http://sirdev-is/irev/print\\_page.pl?appl\\_id=10731050&user\\_id=vbutler&qdate=16-Mar-2007&examiner\\_id=cflory](http://sirdev-is/irev/print_page.pl?appl_id=10731050&user_id=vbutler&qdate=16-Mar-2007&examiner_id=cflory)

List of deficient items:

USPTO Forms 892 and 1449: Non-Patent Literature (NPL) entries include a date (with at least the year).

Text description for this application:

✓ 1449 (6-30-06) NPL ref #A26 is missing the year.

This e-mail message was generated automatically, based on completion of Document Verification Procedures. Please complete the requested actions, but do not "Reply" to this e-mail.

Angle,

IDS was missing date on one NPL ref.  
I have added the date and initialed. Would you mind  
signing the Supplemental Allowance?

Thanks,  
Chris

Add "Supplemental" on the Notice of Allowability form.

Cengie